

(3) The contracting director will assign the request to a contracting officer for processing. The contracting officer shall prepare a summary statement of facts addressing the limitations in FAR 1.602-3(c) recommending whether or not the transaction should be ratified. Advice against express ratification should include a recommendation for other appropriate disposition. When ratification is not permissible due to legal improprieties in the procurement, the contracting officer may recommend that payment be made for services rendered on a quantum meruit basis (the reasonable value of work or labor) or for goods furnished on a quantum valebant basis (the reasonable value of goods sold and delivered) provided there is a showing that the Government has received a benefit. (See FAR 1.602-3(d).)

(4) The request for ratification, the information required by paragraph (b)(3) of this section and a recommendation for corrective action to preclude recurrence, must be forwarded, through appropriate channels to the HCA for consideration.

(5) The HCA shall approve the ratification in writing, or direct other disposition as appropriate. Acquisitions approved for ratification are returned to the contracting officer for issuance of the necessary contractual documents. If the request for ratification is not justified, the HCA will return the request without approval and provide a written explanation for the decision not to approve ratification.

(6) HCAs shall maintain a separate file containing a copy of each request for approval to ratify an unauthorized contractual commitment and a copy of the response. This file must be made available for review by the Office of Acquisition Policy and the Inspector General.

#### **501.603-1 General.**

The contracting officer warrant program (COWP) is the system established for the selection, appointment, and termination of appointment of contracting officers.

### **Subpart 501.7—Determinations and Findings**

#### **501.707 Signatory authority.**

The FAR frequently refers to determinations being made by the agency head. Section 309 of the Federal Property and Administrative Services Act defines agency head and provides that at the option of the Administrator, the term may include the chief official of any principal organizational unit of the GSA. The Administrator has authorized the heads of contracting activities to act as agency head to facilitate the procurement of property and services under Title III of the Federal Property and Administrative Services Act. (See GSA Delegation of Authority Manual, ADM P 5450.39C.) When the applicable statute precludes redelegation of the authority, the Administrator must sign the D&F (see for example, FAR 6.302-7). Class D&Fs, if authorized, must be signed by the HCA.

[60 FR 54955, Oct. 27, 1995]

## **PART 502—DEFINITIONS OF WORDS AND TERMS**

### **Subpart 502.1—Definitions**

#### **502.101 Definitions.**

*Agency competition advocate* means the GSA Competition Advocate located in the Office of Acquisition Policy.

*Chief of the contracting office* means branch chiefs of Central Office or regional office branches within divisions that are responsible for performing contracting and/or contract administration functions except for FSS. In FSS Commodity Centers, “chief of contracting office” means division directors within the Commodity Centers. In Federal Supply Service Bureaus, “Chief of Contracting Office” means branch chiefs or supervisory equivalents. In PBS, the Director of a Facility Support Center is considered to be the “chief of the contracting office.”

*Contracting activity competition advocate* means the individual designated in writing by the head of the contracting activity. This authority may not be redelegated. The HCA must ensure that

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the designated competition advocate is not assigned any duty or responsibility that is inconsistent with the advocacy function. The identity of the designated official shall be communicated to procuring staff and the Senior procurement executive.

*Contracting director* means directors of Central Office or regional office divisions that are responsible for performing contracting and/or contract administration functions except for FSS. "Contracting director" means directors of Commodity Centers and Federal Supply Service Bureaus in the FSS.

*Head of the contracting activity* means the Associate Administrator for Acquisition Policy, Associate Administrator for Federal Telecommunications Service (FTS), Commissioners of the Federal Supply Services (FSS), Information Technology Services (ITS), Public Buildings Service (PBS), or Regional Administrators. The Associate Administrator for Acquisition Policy serves as the HCA for Central Office contracting activities outside of FTS, FSS, ITS and PBS.

*Senior procurement executive* means the Associate Administrator for Acquisition Policy.

[57 FR 9213, Mar. 17, 1992, as amended at 57 FR 61583, Dec. 28, 1992; 60 FR 21467, May 2, 1995; 60 FR 54957, Oct. 27, 1995]

## PART 503—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

### Subpart 503.1—Safeguards

Sec.

- 503.101 Standards of conduct.
- 503.101-3 Agency regulations.
- 503.104 Procurement integrity.
- 503.104-4 Definitions.
- 503.104-5 Disclosure, protection, and marking of proprietary and source selection information.
- 503.104-7 Postemployment restriction applicable to Government officers and employees serving as procurement officers and certifications required from procurement officials leaving Government service.
- 503.104-8 Knowing violations, duty to inquire, and ethics advisory opinions.
- 503.104-9 Certification requirement.
- 503.104-10 Solicitation provisions and contract clauses.

503.104-11 Processing violations or possible violations.

503.104-12 Ethics program training requirements.

### Subpart 503.2—Contractor Gratuities to Government Personnel

503.203 Reporting suspected violations of the Gratuities clause.

503.204 Treatment of violations.

### Subpart 503.3—Reports of Suspected Antitrust Violations

503.303 Reporting suspected antitrust violations.

### Subpart 503.4—Contingent Fees

503.404 Solicitation provision and contract clause.

503.408 Evaluation of the SF 119.

503.408-1 Responsibilities.

503.409 Misrepresentations or violations of the Covenant Against Contingent Fees.

### Subpart 503.5—Other Improper Business Practices

503.570 Advertising.

503.570-1 Policy.

503.570-2 Contract clause.

### Subpart 503.6—Contracts with Government Employees or Organizations Owned or Controlled by Them

503.602 Exceptions.

503.603 Responsibilities of the contracting officer.

### Subpart 503.7—Voiding and Rescinding Contracts

503.702 Definitions.

503.705 Procedures.

### Subpart 503.8—Limitation on Payment of Funds To Influence Federal Transactions

503.804 Policy.

503.806 Processing suspected violations.

AUTHORITY: 40 U.S.C. 486(c).

SOURCE: 54 FR 26496, June 23, 1989, unless otherwise noted.

## Subpart 503.1—Safeguards

### 503.101 Standards of conduct.

#### 503.101-3 Agency regulations.

(a) GSA Standards of Conduct are in Part 105-735 of the General Services Administration Property Management

Regulations (GSPMR) (ADM 7900.9). Authorized exceptions to FAR 3.101-2 are in GSPMR 105-735.202(e). Enforcement procedures are in GSPMR 105-735.101.

(b) The requirement for employee financial disclosure and restrictions on private employment for former Government employees are in GSPMR 105-735.4 and 105-735.6.

#### **503.104 Procurement integrity.**

##### **503.104-4 Definitions.**

*Property*, as used in FAR 3.104 and in this section, also means acquisitions of leasehold interests in real property.

[55 FR 39972, Oct. 1, 1990]

##### **503.104-5 Disclosure, protection, and marking of proprietary and source selection information.**

(a) The contracting officer or any other individual who prepares, makes or controls proprietary and source selection information shall—

(1) Ensure documents are marked as prescribed in FAR 3.104-5(c).

(2) Provide physical security for documents in the office environment during and after duty hours.

(3) Ensure security of interoffice mailing of documents by using opaque envelopes, “double wrapping” with more than one envelope and sealing of envelopes.

(4) Maintain strict control over oral communications regarding the acquisition.

(b) The GSA Form 3611, Cover Page Source Selection Information, may be used as the cover page for documents that contain source selection information. The use of the GSA Form 3611 does not eliminate the requirement to mark each page of the document that contains source selection information.

(c)(1) The following classes of persons are authorized access to proprietary and source selection information to the extent necessary to accomplish their requisite duties and responsibilities with respect to a particular procurement:

(i) Requirements generators, including client agency representatives, program and technical experts involved in the development of statements of

work, specifications or similar documents.

(ii) Contracting personnel acting in support of the contracting officer.

(iii) Secretarial, clerical and administrative personnel of the contracting activity directly involved in the procurement.

(iv) Supervisors in the contracting officer's chain of command.

(v) Attorneys in the Office of General Counsel and Regional Counsel's Offices.

(vi) Contract auditors in the Office of Inspector General and Regional Inspector General's offices.

(vii) Engineers and other technical support personnel who provide support to the contracting officer.

(viii) Small Business Technical Advisors.

(ix) Small Business Administration (SBA) personnel responsible for reviewing determining not to set-aside acquisitions, determining the small business status of offerors under FAR 19.302, processing applications for Certificates of Competency under FAR subpart 19.6, reviewing subcontracting plans, or awarding contracts under the 8(a) program.

(x) Department of Labor (DOL) personnel responsible for making eligibility determinations under the Walsh-Healey Public Contracts Act or for processing preaward EEO clearances under FAR 22.805.

(xi) Personnel in the Credit and Finance Branch, Region 6, and other personnel who provide support to the contracting officer in making contractor responsibility determinations.

(xii) Personnel serving on technical evaluation boards or source selection evaluation boards.

(xiii) Contract clearance personnel.

(2) The Associate Administrator for Acquisition Policy may authorize additional classes of persons access to proprietary or source selection information.

(3) The contracting officer may authorize persons access to proprietary or source selection information when such access is necessary to the conduct of the procurement and to the extent that the person has a “bona fide need to know.” Access must be limited to only that information needed by the person to perform his/her responsibilities.